(*b*) Yes.

(*c*) Yes.

(*d*) The amount was spent on deviations of roads near towns and on special repairs of provincial roads.

GOVERNMENT BUSINESS—BILLS
(*contd.*)

Bill further to Amend the Mysore District Boards Regulation, 1926—(*contd.*)

Mr. K. CHENGALARAYA REDDY, referring to the comments made by certain members the previous day on the part played by the non-official members of the committee constituted for amending the District Boards Regulation, sought permission to make a brief statement explaining to the House what actually transpired in the committee. In the first place, he observed that considerable restraint was put on the committee by the limited terms of reference. Even though the order stated that the committee could make recommendations for improving the Regulation, most of the constructive suggestions of the non-official members were ruled out as not falling within the purview of the terms of reference. He mentioned the following points which were so suggested but not allowed, as instances :—

(1) Co-ordinating the work of District Boards with that of other Local Bodies.

(2) Having separate Engineering establishments under the control of District Boards.

(3) Improving the financial resources of Local Bodies so as to enable the non-official Presidents to effect improvements.

(4) Reducing the contributions by Local Bodies towards medical aid, etc.

(5) Partial relief in the matter of contribution towards sinking drinking water wells.

(6) Placing Sanitary Inspectors under the control of Local Bodies.

As regards the other matters discussed, the speaker said that the question of village panchayats having control over shandies had come up, that District Board presidents had pointed out to the Government that the arrangement they had proposed would involve a withdrawal of privilege which District Boards were formerly enjoying and lead to practical difficulties due to dual control. But the District Board presidents, he added, had no objection to the village panchayats holding shandies in any new places convenient to them.

About *jatras*, fairs, etc., it was agreed in the committee, after prolonged discussion, that *jatras* and fairs already existing, except those specially reserved as well as those to be instituted in the future, shall be placed under the control of District Boards. As regards private markets, the decision arrived at was that the provision contained in Section 121 (i) of the Madras Act should be adopted.

As regards the provision in the Bill regarding Presidents of District Boards being called upon to appear before the Government Auditor to give statements and explanations, he explained that it was stated on behalf of Government that the Auditor referred to would be one not below the rank and status of an Assistant Comptroller and that the presidents need not stand on false prestige and refuse to furnish any information required by him. The non-official feeling in the committee was that the officer deputed to examine the presidents under such circumstances should be the Comptroller himself.

On the question of holding the presidents responsible for loss of funds, etc., the non-officials on the committee admitted that they should not shirk their responsibilities for any loss caused to local bodies by their negligence, etc., and should be prepared to face the issue. He personally did not object to the provision made for appeal against the orders of the Deputy Commissioner and even for taking the matter to the civil court.

Though he had taken objection to having to submit Administration Reports and Budget Estimates to Government and carrying on correspondence with them only through the Deputy Commissioners, the committee had

over-ruled it with the help of an official majority.

As regards the railway cess, the non-officials had expressed different opinions. If they gave any consent at all, it was only to the enabling clause in the bill that in case it was not required for extension of railways, it could be diverted for improvement of roads.

In the matter of delegating the powers of Government under the Regulation to any subordinate officer, the contention of the non-officials was that the officer should not be below the rank of Head of a Department. But on the strength of the explanation that such powers were delegated in British India to Collectors and that therefore delegation here also would be in favour of officers of a corresponding status, the change was agreed to.

MR. CHENGALARAYA REDDY also emphasised the promise held out by the Chairman of the Committee that Government would issue orders very early enlarging the powers of the presidents of District Boards in regard to matters not covered by the Regulation but specifically raised by the non-official members. An assurance had been given that the question was under the active consideration of Government and that a notification would issue very soon.

MR. CHENGALARAYA REDDY next referred to the report drawn up by Government of the proceedings of the committee and said that because of the very short interval between the last meeting of the committee and the opening of the Assembly, he could not append his minute of dissent though he wanted to do so. He also stated that he had not affixed his signature to the report that was circulated to the committee members. Not only had the committee to push through its work in great hurry, but the Government Member who was the Chairman, was also hard up for time due to his then impending visit to Bombay and Simla on State matters. On the whole, he stated that special stress was laid by the Chairman of the committee on the possibility of transferring powers to non-officials by means of executive orders so that there was no need to amend the provisions of the Regulation. This was the reason why, he said, the non-official members yielded on many issues, but it was not known how far the hopes entertained by them on the basis of that assurance would be realised. For example, about the constitution of District Board, it had been proposed that the elected element in the District Board should be raised from two-thirds to four-fifths but in view of the promised executive orders, this point also was not pressed.

So far as the bill before the House went, he said that unless he knew what exactly would be the improvements which Government were going to effect, he was not inclined to support it. He, however, suggested that since the amendments would come into force only after the next elections, the bill might be referred to a special committee composed of the presidents of all the District Boards and a revised bill placed before the next session of the Assembly. In conclusion, he said that if those things were not going to be done, the attitude of non-official members towards the bill would be one of absolute indifference.

Mr. B. L. BYANNA said that though a president or vice-president assumed office immediately after the declaration of the results of election, it was implied that he would actually take charge of the office only after the publication of the notification in the Gazette. No object would be gained by the modification proposed and he therefore thought that the existing practice might continue.

The SECOND MEMBER (Rajamantrapravina S. P. Rajagopalachari) said that what was proposed in the bill was to codify what was actually taking place even now. Once the appointment was notified in the Gazette there would be some amount of certainty about it. Even Members of the Representative Assembly and the Legislative Council would be deemed to have been elected as such only after the notification in respect of their election was published in the Gazette. As such, what was proposed in the bill was not a novel procedure.

Mr. S. K. VENKATARANGA IYENGAR said that there was some suspicion

in the minds of the people that the publication of the notification might be delayed unduly, and that with a view to allay the suspicion, it would be better to lay down that the publication of the notification should be in the particular issue of the Gazette immediately following the election.

Mr. S. P. RAJAGOPALACHARI said that the Government were not interested in delaying the notification unless there was any objection to it.

Mr. B. L. BYANNA said that in Madras and other British Indian Provinces, the members would take their seats immediately after the results of election were known and suggested that the same procedure be followed in Mysore also.

Regarding removal of the president or vice-president from office, he said that the person would not be removed from office the moment he was arrested. He would be given sufficient time to repay the amount. If he repaid it within that time, there would be no trouble at all. Otherwise, he must go out of office. It was very necessary that indebted persons should not be in charge of such responsible posts where they had to deal with public funds. The suggestion should have emanated from the members themselves and as such there would be no meaning if the Government were found fault with for having taken the initiative in the matter.

Regarding audit, he said that the contention of certain members that it was *infra dig* for District Board presidents to render accounts to auditors was not tenable for a moment. Nobody need be afraid of audit so long as the accounts were correct.

He brought to notice that district board roads were not maintained in a proper condition. The reason for this was that in many cases, in order to prevent lapses of grants, contracts were given at the tail-end of the year and the works pushed through hastily so that bills also might be paid before the end of the year.

There were many instances of negligence or misconduct on the part of presidents or vice-presidents. For example, some presidents were not even placing arrear lists before the Board. They sometimes allowed claims to get time-barred and thereby heavy losses would accrue to the District Boards. Such being the case, he did not know why any Member should object to a president being penalised for his own neglect or misconduct. The provision now included in the bill, he said, was thus a very desirable one.

He then suggested that it was very necessary that Chief Officers should be appointed to the District Boards if really the funds of the Boards should be well spent. The presidents were not whole-time servants and they were in many cases non-technical men. The Deputy Commissioners could not bestow much attention to district board works. Therefore the appointment of Chief Officers would help in ensuring that the district board funds would be properly spent.

In conclusion, he said that the bill was one which deserved support at the hands of the Members of the House.

Mr. N. G. SANJIVIAH said that the work of the committee was not quite satisfactory as things were hurried through. He wondered why Mr. Chengalaraya Reddy should have acquiesced in the decisions arrived at by the committee instead of lodging his protest in respect of them. The object of appointing the committee was to rectify defects in the existing law, and it could have been best achieved if all the changes necessary had been consolidated and placed before the House. The one chief defect in District Board administration was the absence of a Chief Officer attached to the Boards. For want of engineering establishment of their own, District Boards were losing heavy amounts of money by way of supervision charges and plant and tool charges paid to the Public Works Department. If all that money was saved to the District Boards, they could usefully spend it on some of their roads or on some other essential needs.

Regarding *jatras*, he said that the Government had retained some of them under their control, *e.g.*, Ghati Subrah

manya Jatra and had entrusted others to the care of District Boards. From this he inferred that Government were eager to reserve in their own hands the more remunerative *jatras*, transferring to the District Boards control over only the more ordinary ones.

He was firmly of opinion that the railway cess fund should on no account be utilised for expenditure on roads. It was levied for the specific purpose of railway extension and it should be utilised only for that purpose. If for any reason there was no likelihood of any railway extension being taken up in the near future, the levy of the cess might be abolished and relief given to the raiyats. This would be very much appreciated by the raiyats specially at the present time when they were finding it very difficult to pay their *kandayam*.

He agreed with Mr. Byanna in the view that Chief Officers were necessary for the proper utilisation of District Board funds.

Mr. S. P. RAJAGOPALACHARI observed that there was already provision in the Regulation for District Boards to have their own Chief Officers, but as no need was felt for the appointment of such officers, the provision had not been availed of.

Mr. N. G. SANJIVIAH was not in favour of income from shandies being shared by the District Boards and the village panchayats. As the District Boards were maintaining all the roads and were responsible for drinking water wells in the District Board areas, he thought that it was only right that they should get the entire income.

In conclusion, he said that the District Boards should be given more powers with a view to empower them to tap fresh sources of income so that they might be able to meet their growing expenditure.

Mr. H. M. CHANNABASAPPA said that in the clause relating to the delegation of powers by Government to their subordinates, it was necessary to mention the rank and status of the officer who was competent to exercise the powers delegated. He had no objection to the utilisation of railway cess for expenditure on roads, but he suggested that in the utilisation of the fund, special preference should be shown in the matter of constructing roads and bridges to such of the districts as had no railway facilities at all. In clause 27A relating to casual vacancies resulting from an increase in the number of members, he suggested that the words "or for such period as the Government may in this behalf notify in the official Gazette" be omitted. He also wanted that the words "due notice" in clause 30 (3) be defined so that the president might not sleep over the request of the member. Personally, he thought that a week's notice ought to be sufficient.

Mr. K. T. BHASHYAM AIYANGAR said that the amendments proposed had given room for a lot of discussion and that on the whole, the District Boards would not benefit much by the amendments proposed in the bill. Many other improvements which were more urgently necessary, had not been taken up. And even in the amendments proposed, there were some which were not quite satisfactory. Mr. Chengalaraya Reddy who had been a member of the committee had explained the work of the committee in detail and stated that he himself was not in favour of some of the amendments.

Mr. S. P. RAJAGOPALACHARI interrupting the speaker, stated that Mr. Chengalaraya Reddy had generally supported the bill both in the committee and in the House.

Mr. K. T. BHASHYAM AIYANGAR observed that he was very sorry that Mr. Chengalaraya Reddy should have supported it. District Board presidents had the same status as Deputy Commissioners and certainly their position would be compromised if they were asked to render explanations before auditors of or below the Assistant Comptroller's grade.

Mr. S. P. RAJAGOPALACHARI referred the speaker to Section 79 (*b*) of the Regulation and said that it had reference to the "person accountable" and not to the president. There was therefore no need to assume that the president himself would always be summoned.

Mr. K. T. BHASHYAM AIYANGAR said that " any person " might include the president also. It was necessary to make it clear that this would not be so.

Mr. S. P. RAJAGOPALACHARI pointed out that in the City Municipalites, the honorary presidents of which had the same status as Deputy Commissioners, similar provisions existed and he could not understand why the inclusion of the same provisions in the District Boards Regulation should be resented by any member of the Assembly.

Mr. K. T. BHASHYAM AIYANGAR said that the existence of such a provision in the City Municipalities Regulation should not be the reason for its inclusion in the District Boards Regulation also. At the time the Municipal Regulations were discussed, this point might not have been noticed by the members. The words " any person " would include the president and the vice-president, and he suggested that with a view to give them protection, the words " provided that neither the president nor the vice-president shall be requisitioned " be put in.

Mr. S. P. RAJAGOPALACHARI observed that in any special case, if the president or the vice-president himself had some document in his possession, there would be nothing wrong in his being summoned to produce it.

Mr. K. CHENGALARAYA REDDY said that in such cases, the Government might call for the papers and not the Auditor.

Mr. S. P. RAJAGOPALACHARI said that if clauses 79 (*a*) to (*d*) were read together, it would be clear that the person accountable and not the president would be summoned. Members should not be under the impression that this section was intended to subject presidents or vice-presidents of District Boards to any indignities. A section similar to the one under discussion was already in existence in the Municipal Regulations, but so far no difficulty had arisen. Under the law in force, a Third Class Magistrate, or for the matter of that, even a Police Sub-Inspector might summon any person, whatever his status, to appear before him and explain any matter. That was not objected to as amounting to an insult to anybody. It was therefore advisable for members not to take that line of argument. He would give the assurance that the amendment would in no way affect the status or prestige of the president or the vice-president.

Mr. K. T. BHASHYAM AIYANGAR said that the analogy was not very satisfactory, for a Third Class Magistrate was a judicial officer who could take statement from anybody on oath, whereas the Government Auditor was only an administrative officer. For example, he could not grant copies of statements made before him to anybody who applied for them.

Mr. S. P. RAJAGOPALACHARI observed that for purposes of audit, the Auditor was a judicial officer and he would have to be a judicial officer if his duties were to be discharged fearlessly. He also added that the Government were not effecting any change in the section as it stood, because audit was a most important matter for the Government as well as for the District Board.

Mr. K. T. BHASHYAM AIYANGAR then referred to the clause relating to the loss of the district board property by the negligence or misconduct of its members, and said that it was too early to say that there was need for such a clause in the Regulation. These institutions came to be managed by non-official members only recently; this additional responsibility might be shifted on to them only after further powers were granted to them. He also added that if Section 88 was amended and it was made a rule that every District Board should have its own Chief Officer, such officer might be made responsible for all such losses.

Regarding the removal of presidents or vice-presidents from office for reasons of indebtedness, he said that though it was a very salutary provision, it should not find a place in the Regulation itself. If the members of the District Board knew that a certain member was indebted, they would not elect him as

president or vice-president at all. However, he would like this point to be left to the members themselves to decide, at any rate, for the present. Even granting that once or twice the members made mistakes, they might be expected to profit by such mistakes.

Mr. B. S. PUTTASWAMY said that he had not expected, after the elaborate explanation given by Mr. Chengalaraya Reddy, any further criticisms of the bill. He agreed with almost all the views expressed by Mr. Chengalaraya Reddy. As was stated by Mr. Chengalaraya Reddy, by the passage of this bill, the local bodies would neither get any additional powers nor lose those already existing.

He did not know why some of the Members of the House including Mr. N. G. Sanjiviah raised objections to the utilisation of the railway cess funds for expenditure on roads and bridges. The amendment did not say that the cess must be levied or that if levied, it must be utilised for improvement of roads. What was provided in the bill was that if a District Board levied the cess and if it also specifically resolved to spend the receipts therefrom on roads, then only could the amount be utilised for that purpose and not otherwise. It was only an enabling clause. As such, he did not think that there was room for any apprehension that simply because a provision like that existed, the cess would be levied in all districts as a matter of course, and that the entire receipts would necessarily be diverted for non-railway purposes.

In respect of the suggestion of Messrs. Byanna and Bhashyam Aiyangar that every District Board should have a Chief Officer, he said that in the counties of England, the Chief Executive was called the County Clerk or Borough Clerk and he was responsible to execute all the works. If any mistake was committed by him, he would be removed. But the practice here was quite different. In most cases, the Chief Officers were men lent by the Government and such officers would naturally give their first attention to the interests of the Central Government, the interest of the local body being only secondary to them. So, there was no use of having such officers so long as they were lent officers of Government.

He generally supported all the provisions of the bill and hoped that the House would also give its support to the same.

Mr. Belur SRINIVASIENGAR said that the amending bill before the House would in effect result in withdrawing some of the powers which the District Board presidents had been exercising for the past six years. Out of 661 States in India, it was only the Mysore State that had entrusted certain responsibilities to non-official presidents of District Boards and these non-official presidents had acquitted themselves very honourably in the discharge of those responsibilities. It would therefore be unfair to curtail their powers to any extent.

He said that diversion of the railway cess fund for road purposes would be wrong in principle and should not be allowed. By so diverting the fund, the Government would be going back upon their promise to provide adequate railway facilities in the respective districts.

The DEWAN pointed out that District Board presidents like Mr. Bagamane Deva Gowda were in favour of such diversion.

Mr. Belur SRINIVASIENGAR replied that whoever agreed to it, it would be wrong to divert the fund. Maintenance of roads in proper condition was a duty of the State and local cesses ought not to be utilised for that purpose. In this view, he said the proposal ought not to be countenanced by the House.

In conclusion, he said that there was no doubt that there were certain defects in the existing law which should be rectified. But that could not be done by means of the proposed amending bill. A more effective way than that would be for Government to take District Board presidents into confidence and consult them. For this purpose, he suggested that the Member of Council in charge of the Local Self-Government portfolio might convene a conference

of presidents of District Boards for discussing suggestions to be specially invited in this behalf.

Mr. H. K. MADIAH, who spoke next, stated that the appointment of a Chief Officer for each District Board was very necessary.

On behalf of Government, **Mr. S. P. RAJAGOPALACHARI** said that the general principles of the Bill had been discussed at great length and there was not much for him to add after the explanations given by Messrs. Chengalaraya Reddy and Puttaswamy. There seemed to be an impression in the minds of certain Members of the House that the Government were trying to withdraw some of the powers and privileges of non-official presidents of these local bodies. That was an erroneous impression. The bill had been proposed more with a view to improve the machinery of the local bodies by rectifying certain defects in it than to curtail the powers of these office-bearers. There also seemed to be an idea that the District Board presidents should remain sacrosanct and that whatever their faults, nobody should check them. That was evident from the objection taken by many of the members to the provisions in respect of audit. That was not a correct stand for any one to take. Whatever their position, non-official presidents and vice-presidents should be subject to the law of the land as much as anybody else. He wanted that this should be clearly borne in mind by one and all.

As Mr. Chengalaraya Reddy had pointed out, the entire District Board administration was not under consideration. It was only a few sections that were sought to be amended at present. So there was no justification for the criticism that the bill was not comprehensive enough.

The question relating to the appointment of Chief Officers had been discussed at great length and Mr. Chengalaraya Reddy also had referred to it in some detail. Under Section 88, there was already provision for the appointment of Chief Officers in the Regulation, and whether Government would actually appoint them or not was a separate matter. Government would consider the matter as and when individual cases came up for decision. But this would not be a matter for discussion in connection with the amendments included in the bill circulated to the House.

Three main issues were referred to in the terms of reference to the Special Committee, *viz.*, the bill which had been previously prepared by the Government; the resolutions of the Conference of District Board presidents; and other things calculated to improve the machinery of District Board administration. As regards the first, it was discussed section by section in the committee. As regards the second item, an examination was made as to which of the resolutions required an amendment of the existing Regulation. Suggestions had been received before the committee met. The committee discussed those suggestions. It was found that out of 25 resolutions passed by the District Board presidents, only 6 related to legislation, all the rest being matters for executive orders. They were discussed and legislative action, wherever necessary, also suggested. In respect of some others, administrative action was found to be sufficient and so the question of amendments to the Regulation did not arise in connection with them. As regards the third item, *viz.*, matters calculated to improve the machinery of the District Board administration, Mr. Chengalaraya Reddy had suggested 4 or 5 points, some of which were accepted and others rejected after discussion. So, it would not be correct to say that the committee carried the day with all the weight of its official majority. All the members of the committee sat together and discussed the points freely. They did not meet there as officials *vs.* non-officials. On the other hand, non-official members themselves made certain proposals, frankly discussed them, passed some and rejected some. In fact, some of the suggestions made by non-official members were thrown out by their own friends. For example, it was proposed that the proportion of the non-official

elected element should be raised from two-thirds to three-fourths as in the case of Town Municipalities. It was agreed that this suggestion might be considered in connection with the question referred by the Government to the District Boards of the possibility of effecting reduction of the number of members of District Boards. So, there was no idea on the part of the Government that any of the powers of presidents of District Boards should be withdrawn. The amendments had been suggested only with a view to improve the District Board administration, by rectifying some of the drawbacks which had been noticed. For example, Magadi Taluk in the Bangalore District, had sent up a proposal to the effect that panchayats themselves should manage and control the markets. To comply with that and similar requests, an enabling section in the Regulation was necessary. There was provision in the Village Panchayat Regulation, no doubt, but there was no corresponding provision in the District Boards Regulation. Similarly, there were certain provisions in the Muzrai Regulation regarding *jatras* and fairs, but none in the District Boards Regulation. Corresponding provisions had therefore to be incorporated in the bill.

The provision in the bill regarding the Auditor was quite sound and there need not have been all the opposition which had been directed against it. The stricter the audit, the more efficient would be the administration. There was no question of prestige involved in matters of audit.

Other minor questions raised in the course of the debate by certain members had been dealt with by some other members and therefore he would not take up more time of the House by going into them once again.

With regard to the representation made by more than one member that Chief Officers should be appointed to all the District Boards, this was mainly a question of policy and the Member could not say anything off-hand. If particular institutions wanted Chief Officers to be appointed, the Government would certainly consider the question.

Mr. B. SRINIVASA RAO and some other members said that if the clause relating to diversion of railway cess for road purposes was deleted, the House would give its whole-hearted support to the bill as a whole.

Mr. S. P. RAJAGOPALACHARI replied that it had not been included in the bill for the first time now. Some District Boards in fact had levied the cess out of their own free will. If the receipts therefrom were not required for other purposes, why should the District Boards not spend them for other legitimate purposes ?

Mr. MEER MAHOMED SAHIB said that members were repeatedly representing that the railway cess must be discontinued and requested that Government might be pleased to accept the representation on the present occasion once for all.

Mr. S. P. RAJAGOPALACHARI replied that there was no connection between abolition of the railway cess and the bill under discussion.

The general principles of the bill were thereupon put to vote and passed.

Notice of Adjournment Motion.

At this stage, the **DEWAN** informed the House that Mr. Chengalaraya Reddy had given notice of an adjournment motion to discuss an important matter of urgent public interest, *viz.*, recent appointment of a committee for examination and revision of the Representative Assembly and the Legislative Council Rules and Regulations. Though the wording of the motion was vague, the Dewan observed he would have no objection to permitting the motion being taken up for discussion, provided at least 50 members of the House agreed to it as per rules. On more than 50 members signifying consent, the Dewan announced that the adjournment motion might be moved at 4-30 p.m. that day.

The House then adjourned for lunch and re-assembled at 3-30 p.m., Rajamantrapravina Diwan Bahadur K. Matthan, First Member of Council, in the Chair.